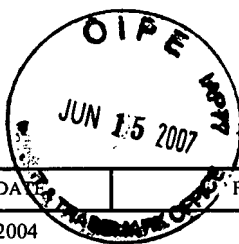




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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,755	03/31/2004	Gregory A. Ewing	HECC.109868	5256

7590 06/06/2007
Richard R. Johnson
SHOOK, HARDY & BACON L.L.P.
One Kansas City Place
1200 Main Street
Kansas City, MO 64105-2118

EXAMINER

FENSTERMACHER, DAVID MORGAN

ART UNIT PAPER NUMBER

3682

MAIL DATE DELIVERY MODE

06/06/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/813,755	Applicant(s) EWING ET AL.	
	Examiner David M. Fenstermacher	Art Unit 3682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3-19 is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>7/7/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is the first action on the merits. Claims 1-19 are pending.

Information Disclosure Statement

2. The IDS, filed 3/31/04, has been considered in full.

Drawings

3. The drawings, as originally filed, are acceptable as formal.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Duckeck et al. (6,435,054).

Duckeck et al. shows the claimed invention including a shift lever (9) which is connected to a linkage (49) which is connected to arm (at 50); the movement of the shift lever causes movement of the arm and effects a range change on the transmission, the shift device also having a actuator on the right side of the gearbox (at 36) which is connected to an arm (44) via a linkage (42); the transmission being a manual

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transmission and therefore has the associated internal components including gears and shift forks.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Duceck et al. (6,435,054).

Duceck et al. shows the claimed invention as recited above.

Duceck et al. fails to disclose that the linkage mechanisms could be mounted on either the top, right, or left sides of the transmission.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to locate the linkage system on any side of the transmission since the mere re-location of parts, in itself, has not been found to be patentable. Further, Duceck et al. does show that the linkage could be on the top and on the side of the transmission housing simultaneously. It would not be difficult to envision relocating the bracket (53) to the other side of the transmission housing for clearance purposes.

Allowable Subject Matter

8. Claims 3-19 are allowed.

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Conclusion

9. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

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I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. () _____ - _____ on _____
(Date)

Typed or printed name of person signing this certificate:

Signature: _____

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Registration Number: _____

Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David M. Fenstermacher whose telephone number is 571-272-7102. The examiner can normally be reached on 10:30-7:00.

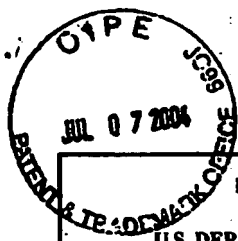
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on 571-272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



David M. Fenstermacher
Primary Examiner
Art Unit 3682

5/31/07



PTO-1449 (Modified) U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE INFORMATION DISCLOSURE STATEMENT BY APPLICANT	Attorney Docket No.: HECC.109868	Serial Number: 10/813,755
	Applicant: GREGORY A. EWING et al.	
	Filing Date: March 31, 2004	Group: 3682

U.S. PATENT DOCUMENTS

EXAMINER INITIAL	PATENT NUMBER	ISSUE DATE	INVENTOR	CLASS	SUBCLASS	FILING DATE
JMS	5,816,101	10/06/1998	Weston			
	6,026,698	02/22/2000	Weston			
	6,374,686	04/23/2002	Weston			
	5,284,067	02/1994	Seaman			
	5,404,772	04/1995	Jester			
	5,097,717	03/1992	Bardoll			
	5,884,525	03/1999	Toyota et al.			
	6,202,499	03/2001	Brinn			
	6,155,125	12/2000	Negherbon et al.			
	5,570,605	11/1996	Kitagawara et al.			
	5,339,707	08/1994	Arbus			
	5,020,385	06/1991	Bader, Josef			
JMS	4,194,410	03/1980	Richards			
	4,104,928	08/1978	Vandervoort			

FOREIGN PATENT OR PUBLISHED FOREIGN PATENT APPLICATION

EXAMINER INITIAL	DOCUMENT NUMBER	PUBLICATION DATE	COUNTRY OR PATENT OFFICE	CLASS	SUBCLASS	TRANSLATION	
						YES	NO

OTHER DOCUMENTS (Including Author, Title, Date, Relevant Pages, Place Of Publication)

DAVID FEENSTERMACHER	
EXAMINER PRIMARY EXAMINER JMS	DATE CONSIDERED 5/31/07
EXAMINER: Initial citation if reference was considered. Draw line through citation if not in conformance to MPEP 609 and not considered. Include copy of this form with next communication to applicant.	

Notice of References Cited	Application/Control No. 10/813,755	Applicant(s)/Patent Under Reexamination EWING ET AL.	
	Examiner David M. Fenstermacher	Art Unit 3682	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-6,435,054 B1	08-2002	Duckeck et al.	74/473.34
*	B	US-2006/0096401 A1	05-2006	Mathis et al.	074/473.1
*	C	US-7,096,753 B2	08-2006	Kawakubo et al.	74/337.5
*	D	US-6,279,423 B1	08-2001	Kitajima et al.	74/606R
*	E	US-6,761,087 B2	07-2004	Blanchard, Robert	74/606R
*	F	US-3,757,598	09-1973	Van Dest, Jean Claude	74/473.3
*	G	US-1,317,191	09-1919	Jensen	70/247
*	H	US-5,052,239	10-1991	Ubagai, Toshikazu	74/473.36
*	I	US-4,299,134	11-1981	Roy et al.	74/473.37
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.